

CHAPTER VII

LABOR STANDARDS

Labor standards administration involves the activities that take place primarily before construction begins. Administration sets the stage for the compliance activities that occur during the construction phase. Main components relating to HUD Labor Standards and Missouri Department of Labor Standards are presented in this chapter.

FEDERAL STATUTORY PROVISIONS

Davis-Bacon wage rates apply to HUD programs because of prevailing wage requirements expressed in the HUD “Related Acts” such as the **U.S. Housing Act of 1937** and the **Housing and Community Development Act of 1974**, as amended. **The Housing and Community Development Act of 1974** provides that “All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act, as amended (40 USC 276a-276a-5): *Provided*, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

The Missouri State CDBG Program utilizes HUD Handbook 1344.1 to measure applicability of federal statutory provisions to the State CDBG Program.

The **Davis-Bacon Act** provides the advertised specifications for every contract in excess of \$2,000 for the construction, alteration, and/or repair, which requires or involves the employment of laborers and/or mechanics, shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed. The **DBA** includes provisions that:

- Require the contractor and/or subcontractor to pay all mechanics and laborers not less often than once a week;
- Prohibit deductions or rebates from wages earned by laborers and mechanics
- Require the contractor and/or subcontractor to pay Davis-Bacon wages to all laborers and mechanics employed on the site of the work regardless of any contractual relationship alleged to exist between the laborers and mechanics and the contractor or subcontractor;
- Require that the scale of wages to be paid (i.e., the applicable Davis Bacon wage decision) be posted in a prominent and accessible place at the work site;
- Define prevailing wages to include fringe benefits;
- Permit withholding, the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics, from payments due to the contractor on account of wage restitution, which may be found due to the laborers and mechanics;

- Permit the payment of wage restitution from amounts withheld from contract payments
- Permit the termination of the contract where it is found that any laborer or mechanic is underpaid
- Permit the debarment of persons or firms found to have disregarded their obligations to employees and subcontractors.

The Contract Work Hours and Safety Standards Act (CWHSSA). The CWHSSA applies to both direct Federal contracts and to Federally –assisted contracts where those contracts require or involve the employment of laborers and mechanics and where Federal wage standards (e.g., Davis-Bacon or HUD-determined prevailing wage rates) are applicable. CWHSSA provides that all overtime hours (defined as hours worked in excess of 40 during any workweek on the CWHSSA-covered project site) must be compensated at a rate not less than one and one half times the regular basic rate of pay. CWHSSA overtime provisions do not apply where the Federal assistance is only in the nature of a loan guarantee or insurance. The specific provisions of this Act only apply to all CDBG-funded construction contracts over \$100,000; however, the overtime requirements in the Federal **Fair Labor Standards Act** are generally enforceable for all contracts and subcontracts (regardless of size) covered under Davis-Bacon provisions.

Relation of the DBA to State, Local, and Other Federal Laws

Since 1931, Congress has extended the Davis-Bacon prevailing wage requirements to some 60 related Acts which provide federal assistance for construction through loans, grants, loan guarantees, and insurance. These Acts include by reference the requirements for payment of the prevailing wages in accordance with the Davis-Bacon Act. As previously stated, the **Housing and Community Development Act of 1974** is one of the related Acts.

The **Copeland "Anti-Kickback" Act** provision makes it a criminal offense for a person to induce anyone employed in the construction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which the employee is otherwise entitled. The Act also defines allowable payroll deductions, specifies methods of paying wages to covered employees, and requires the submission of weekly payrolls in conjunction with statements of compliance by all contractors in a format that meets the statutory requirements of 29 CFR Section 5.5.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State and local laws. Also, overtime work pay requirements under CWHSSA and the **Fair Labor Standards Act** may apply.

Fair Labor Standards Act (FLSA) The FLSA governs such matters as Federal minimum wage rates and overtime. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one half times the regular rate of pay. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) Federal standards such as the DBRA prevailing wage requirements and CWHSSA overtime provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

MISSOURI PREVAILING WAGE LAW

The Missouri Prevailing Wage Law is comparable to the Federal law in requiring payment of prevailing wages, as determined each year by the Missouri Division of Labor Standards, to all laborers and mechanics on public works construction projects for both straight time and overtime as defined by the authorizing State statute (RSMo Chapter 290). **Obtain access to the State Annual Wage Order as supplied by the Missouri Division of Labor Standards through their Web site www.labor.mo.gov/DLS/PrevailingWage/.** In addition, when the project is advertised for bid, a "Prevailing Wage Project Notification-Contractor Information Notification" (PW-2) must be filed with the Missouri Division of Labor Standards. Grantees are encouraged to review other related documents such as the Prevailing Wage Law Check-Off list, and the Affidavit of Compliance with the Prevailing Wage Law which contractors must submit to the Missouri Department of Labor prior to requesting final payment of public funds. These forms are provided electronically in conjunction with the Annual Wage Order.

GRANT ADMINISTRATION DUTIES

- Coordinate with the consulting engineer or architect in regard to CDBG bid documents and required HUD contractual provisions.
- Request federal prevailing wage rates from State CDBG office prior to bid advertisement and also, update 10 days prior to bid opening.
- Coordinate with the consulting engineer or architect to schedule and conduct the Pre-Construction Conference. A sample format for labor standards-related topics to be covered is provided within this chapter. Contractor must determine and pay higher wage rate between federal and state prevailing wage rates, included within the construction contract, for each specific classification utilized.
- Submit the *Start of Construction Notification* form to DED. All information needed to complete this report should be available following the pre-construction meeting.
- Obtain weekly certified payrolls from all prime contractors and subcontractors (including the Statement of Compliance), and forward copies of initial payrolls to DED for verification of local approval. The standard Federal payroll form (WH-347) or equivalent must be used. Any evidence of underpayment or other discrepancies in the payrolls, which are successfully addressed at the local level, should be reported to our office along with corrective actions taken.
- Review payrolls for compliance with current applicable Davis-Bacon wage decision and Missouri State Annual Wage Order. Contractor must determine and pay higher wage rate between federal and state prevailing wage rates. Payrolls are not to be submitted to CDBG without accompanying initial review documentation completed by the grant administrator. First payrolls must be submitted to CDBG before a Request for Funds drawing down the construction activity line.
 - NOTE: The contractor's statement on the certification page that fringe benefits were paid into approved plans, funds, or programs must be accompanied by a breakdown of *bona fide* fringes expressed as an hourly equivalent amount for each employee or job classification. A guide for providing this documentation, along with the definition of fringe benefits allowed in *lieu* of cash payments, are included in this chapter.

- CDBG will conduct a review of the grant administrator's payroll review documentation for the first payrolls and spot check payrolls thereafter for compliance. **If restitution is owed, the amount of the estimated restitution will be withheld from the Request for Funds and the remainder of the construction request will be processed. CDBG recognizes the contractual language stipulating when payment is due to contractor.**
- As a standard objective, grantees should not submit requests to draw down CDBG construction funds until payrolls matching the time frame included in the contractors' pay invoices have been received and approved by the grant administrator in accordance with these procedures.
- Conduct on-site inspections to help confirm contractor compliance by confirming that posters explaining employee rights and the wage decisions are displayed on the job site, and verify through the employee interview process that correct prevailing wages are being paid.

Record of Employee Interview

This form should be utilized by the local Labor Standards designee or another responsible party to obtain information from a representative number of employees and job classifications, thereby helping to achieve a reasonable assurance of compliance. Employee interviews should be conducted at least monthly for the prime contractor, and whenever subcontractors are at work on the site. Objectivity is enhanced when the local labor standards designee, not the contractor, selects the employees to be interviewed. The interview is to be conducted only with the individual employee. The interviewer should obtain the information necessary to complete items #1-12(b) on the Record of Employee Interview, and then observe the employee at work for a period of time before completing items #13-15(c). Information from the interview should then be compared to the findings on review of the weekly certified payrolls, indicated by completion of the "Payroll Examination" section of the form which is items #16-17(b).

Employee interviews may also be conducted by mail if necessary. This process should be limited to situations such as when subcontractors work on the job site for only a brief period of time, which might make personal interviews infeasible.

APPLICABLE WAGE ORDER SELECTION

The decision on which type of wage rate schedule applies to a project can be complex, and often must be handled on a case-by-case basis. For example, the rules governing use of Heavy Construction (Heavy/Highway) or Building rates differ between the Federal and State interpretations, as reflected by the following information:

FEDERAL: All-Agency Memorandum No. 130, issued by the U.S. Department of Labor in 1978, defines Building construction as "the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies." If certain construction activities on a project can be classified in this manner, the key is in determining whether Building construction activities by definition represent more than an "incidental" portion of the contract. Twenty percent of project cost is commonly used as a rough guide in making this decision, hence the use of the term "80/20 rule."

An example would be construction or renovation to a water treatment plant that includes an enclosed structure to house equipment and controls. The grant administrator must first ask the question of whether the estimated cost of the building and related infrastructure (water and sewer, electricity, sidewalks, etc.) exceeds 20% of the total project cost. If the answer is “no”, then it may be assumed that the predominance of project activities falls under the definition of Heavy construction and only the Heavy/Highway determination would be included in the project contract. If the answer is “yes”, multiple schedules must be included in the contract with Heavy/Highway rates in force for heavy construction activities, and Building rates effective for the activities related to the sheltered enclosure and supporting infrastructure located within the “footprint” of the treatment plant site.

STATE: According to 8 CSR 30-3.040 of the implementing rules for the Division of Labor Standards, the definition of Building construction includes “building structures, including modification, additions or repairs, or both, to be used for shelter, protection, comfort, convenience, entertainment or recreation, or for protection of people or equipment.” However, this also includes excavation work for the building; sidewalks, driveways, and parking lots in immediate proximity that provides direct access to the building; extension of water, sewer, and other utilities by work inside a building and to the curb line; and work on water and wastewater treatment plants within the fence line (emphasis added).

The Annual Wage Order provides only Building and Heavy Construction schedules for each county. Grantees must determine the type of work being done, and where the work is taking place in relation to the overall scope of the project, to know which schedule to use. Note that the Heavy construction page does not include certain classifications (common examples include Ironworker and Bricklayers), which requires reference to the Building construction page for that specific trade regardless of the actual nature of the project.

- Regardless of the wage schedule(s) that are considered in force for a specific project, contractors must pay the higher applicable Federal or State prevailing wage rate for the applicable classification to each employee. To assist in determining if the appropriate classification has been reported for the type of work being performed, grantees are encouraged to become familiar with the publication, “Occupational Titles of Work Descriptions” (8 CSR 30-3.060) issued by the state Division of Labor Standards.
- For contracts resulting from sealed bidding, the effective date for DBA WD Modifications is no less than 10 days prior to bid opening.
 - In addition, if a contract to which a general WD has been applied is not awarded within 90 days after bid opening, any modification published prior to contract award is effective. Modifications published less than 10 days before bid opening are not applicable if there is not sufficient time to notify bidders.
- Federal wage determinations are generally “locked in” at the time of bid opening, and are then to remain in force for the life of the project.

FORCE ACCOUNT LABOR

Laborers and mechanics employed directly by the grantee are known as “Force Account” employees and are not subject to prevailing wage requirements. Government-program workers

and other temporary, but *bona fide* employees of the grantee, who might perform work in covered trades on a public works project, are also not subject to prevailing wage requirements.

OWNERS/OPERATORS

The Missouri Division of Labor Standards states that "shareholders of a corporate contractor" must be listed on the payrolls and paid prevailing wage rates by the contractor if the shareholder is performing public works construction. According to a Missouri Southern District Court of Appeals decision, anyone performing construction work on a public works project (not only employees) is covered by the Missouri Prevailing Wage Law; "workmen" on a public works project, regardless of employee or independent contractor status must therefore receive the State prevailing wage.

LR-96-01 establishes a HUD administrative policy that laborers and mechanics may not certify to the payment of their *own* prevailing wages *except* where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew.

The guidance in LR-96-01 more specifically concerns the wage certification requirements for self-employed mechanics and laborers on projects subject to Federal labor standards provisions including Davis-Bacon and HUD-determined maintenance and nonroutine maintenance prevailing wage rate determinations. This policy does not attempt to establish whether working subcontractors are subject to Federal labor standards nor whether such working subcontractors are *bona fide*. The clear meaning of statutory provisions and regulatory definitions does not require further examination of applicability. Additionally, statutory and regulatory languages are clear that the question of whether certain self-employed laborers and mechanics are *bona fide* subcontractors is not germane to the issue of prevailing wage standard applicability.

1099 WORKERS

If the 1099 or independent workers do meet the State of Missouri and/or IRS standards for categorizing as such, this office will not accept workers paid as 1099 workers and/or independent contractors. [/labor.mo.gov/sites/default/files/DES/Forms/M-INF-310-AI.pdf](http://labor.mo.gov/sites/default/files/DES/Forms/M-INF-310-AI.pdf)

<http://labor.mo.gov/offthebooks>

CALCULATING OVERTIME

The State requires overtime based on the employee working daily hours in excess of the maximum hours worked during the weekly reporting period. If overtime is incurred daily and does not exceed 40 hours for the weekly payroll only the State determination would be used to figure the required compensation of time and one-half of the basic rate plus fringe benefits at the straight time rate. However, if the employee worked in excess of 40 hours in a workweek the CWHSSA rules also apply. Overtime must be figured at time and one-half of the higher basic pay rate plus the corresponding straight time fringe benefit rate. In this event, the applicable overtime rate applied is the higher of the federal and state wage rates for the particular classification. Given the potential complexity of this situation, grantees are encouraged to contact your designated Compliance Specialist.

NOTE: The same principle will determine overtime pay when the State determination reflects the higher basic rate for an occupational classification.

VERIFYING APPRENTICE

Contractors on Federally-funded construction projects have the opportunity to utilize apprentices if each person is employed and individually registered in a *bona fide* apprenticeship program registered with the U.S. Department of Labor, Office of Apprenticeship. The state Division of Labor Standards also recognizes this Federal entity as the official State apprenticeship agency. Only apprentices who have exceeded their first 90 days of probationary employment and are individually registered with the USDOL (emphasis added) may be paid less than full prevailing wage for the classification worked, usually reflected as a percentage of the basic hourly rate required and/or fringe benefits specified in the approved plan and in accordance with their level of progression. Contractors are limited in the number of apprentices used in a particular trade during a project, based on an industry formula that determines the allowable ratio of apprentices to journeymen.

To verify Apprenticeship status for an employee on a CDBG project, the contractor must provide a copy of the official USDOL certification form. In certain situations, a Program Registration and Apprenticeship Agreement document from the Office of Apprenticeship Training, Employer and Labor Services (OATELS) can be accepted if it includes contact information and the signature of the apprentice, the sponsoring program, and the registration agency along with the wage scale to be paid based on the trade, length of term, and experience level defined as time in the program or number of training hours completed. An example of each type of form is provided in this chapter.

DEMOLITION AND DAVIS BACON APPLICABILITY

Demolition, alone, without plans for reuse of the property, is exempt from Davis Bacon, and is not considered a construction activity. The DBA applies to Federally-financed contracts in excess of \$2,000 for the construction, alteration, and/or repair, including painting and decorating, of a public building or a public work. The United States Department of Labor, after substantial review, has determined (Memorandum No. 153) that the removal of asbestos or paint from public buildings or public works constitutes building alteration within the statutory language of DBA because asbestos or paint removal clearly alters those buildings or works, regardless of whether subsequent reinsulating or repainting is being considered. Accordingly, any Federal contract in excess of \$2,000 that calls for asbestos or paint removal is subject to DBA and must include its stipulations and the applicable wage decision.

The Missouri State CDBG Program recommends that the demolition contract be separate from the asbestos removal contract. If the asbestos removal is included in the demolition contract, the entire demolition contract will be subject to Davis Bacon provisions. In the event that the demolition project includes both residential structures and commercial structures, there is to be a separate asbestos removal contract for the total residential structures and the total commercial structures. If the asbestos removal contract for the total residential structures is in excess of \$2,000 and there are 8 or more contiguous units, Davis Bacon provisions apply. In regard to an asbestos removal contract for a commercial structure in excess of \$2,000, Davis Bacon provisions apply.

LABOR STANDARDS VIOLATIONS

Non-compliance with Federal and State labor standards requirements are usually discovered through the process of investigating worker complaints, monitoring payroll records, conducting employee interviews, or similar efforts. When labor standards violations are suspected, there are standard procedures to follow depending on the nature of the offense:

1. If the total amount of the underpayment of Federal prevailing wages is over \$1,000, or there is reason to believe that the violations are aggravated or willful, the grantee must furnish a report of investigation to DED. We will forward this information to the HUD area office, which will take appropriate actions and supply a report to the U.S. Department of Labor if necessary.
2. If the underpayment is \$1,000 or less, and there is no reason to believe that the violations are aggravated or willful, the grantee's responsibility is to make certain that full restitution has been paid. Verification of compliance must include a certified correction payroll reflecting the amount of total restitution and allowable deductions, if any. Employers (contractors, subcontractors, etc.) that owe wage restitution to their employees are required to pay the restitution directly to the employees and report the restitution paid on a certified correction payroll. A correction payroll differs slightly from regular certified payroll reports (CPRs). For example, the correction CPR should indicate: 1) the time period for adjustment (6/5/16 thru 8/14/16, or CPRs #1 thru #10); 2) the names of the affected employees; 3) work classifications; 4) the total number of hours for adjustment (daily hours are usually not relevant); 5) the adjustment wage rate (hourly wage required less hourly wage paid); 6) the gross amount of restitution paid; 7) deductions and net restitution paid. The employer will have employees sign the correction CPR at their name as evidence of receipt of restitution. Most importantly, the employer will sign the "Statement of Compliance" certifying to the payments.
3. If the violation specifically involves the Federal overtime provisions of the Contract Work Hours and Safety Standards Act (CWHSSA), liquidated damages of \$10 for each day the employee was eligible but not paid overtime must also be assessed. Contact our office to discuss whether further recommendations should be made to the HUD area office or USDOL.
4. Violations of the provisions of the Missouri Prevailing Wage Law should be reported to the Division of Labor Standards following the procedures established by that agency. Contact the Missouri Division of Labor Standards at 573/751-3403, or access their Web site at www.labor.mo.gov/DLS/PrevailingWage/.

LABOR STANDARDS FILE RECORDS

A labor standards compliance file should be established for each construction contract in order to maintain records of the following:

- Pre-Construction Conference Documentation
- Copies of all forms submitted (Request for Wage Determination, Request for Additional Classification and Rate using HUD form 4230A, Start of Construction Notice, etc.)
- Project correspondence (including written records of telephone and personal contacts) for all Labor Standards-related activity.

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- Executed contract documents, including contractor and subcontractor certifications and final (enforceable) Federal and State prevailing wage determinations.
- Weekly certified payrolls (obtain record of contractor's fringe benefit plan if applicable, etc.)
- Meeting minutes, record of attendees, etc. from the preconstruction conference.
- Documentation of all employee interviews conducted.

SAMPLE AGENDA OF PRE-CONSTRUCTION CONFERENCE

Items to be discussed

Identification of Official Representatives Attending Meeting
Responsibilities of Consulting Engineer
Responsibilities of City/County Governing Body
Responsibilities of CDBG Grant Administrator
Responsibilities of Any Other Agency Contributing to the Project
Responsibilities of Contractor, Sub-Contractors
General Discussion of Contract
Notice to Proceed
Completion Time for Contract
Liquidated Damages
Requests for Extension of Contract Time
Procedures for Making Partial Payments, Owner Must Inspect and Approve Pay Estimates
Guarantee on Completed Work
Other Requirements of the Contract and Specifications which Deserve Special Discussions by All Parties
Contractor's Schedule
Equipment to be Used by Contactor
Contractor's Plans for Delivering Materials to Project Site
Status of Materials Furnished by City/County
Procedures to be Adopted by Contractor in Accounting for and Storing Such Materials
Change Orders
Staking of Work, Placement of Project Signs and Posters
Project Inspection
Safety and Sanitary Regulations
Final Acceptance of Work
Labor Requirements, State and Local Requirements, Other Requirements if Applicable
Contractor to Submit Weekly Payrolls
Reports Required, Equal Employment Provisions of contract
Rights-of-Way and Easements, Coordination with RR, Hwy Department and Other Organizations
Handling Disputes



REQUEST FOR FEDERAL WAGE DETERMINATION

REQUEST IS HEREBY MADE FOR THE DETERMINATION OF THE WAGE RATES TO BE PAID, PURSUANT TO SECTIONS OF THE DAVIS-BACON ACT AND DBRA.

Grantee Name: _____ Project #: _____

Address: _____

City: _____ ZIP Code: _____

Date of Request: _____ County: _____

Mayor/Presiding Commissioner: _____

Project Description:

Check with the consulting engineer to determine the relative portion of the project activities under the Federal "80/20" definition, and respond to the following:

- | | Yes | No |
|---|-------|-------|
| 1. Does this project contain dual construction activities? | _____ | _____ |
| 2. If yes, is Building construction more than 20% of the total project,
or | _____ | _____ |
| 3. If yes, is Heavy construction more than 20% of the total project? | _____ | _____ |

Type of Federal Determination requested

_____ Heavy & Highway _____ Building Only _____ Both H & H and Building
Only

Name of person requesting wage rates: _____

Organization: _____

Phone (include area code): _____ E-Mail: _____

Street Address City (post office) State ZIP Code

Signature Title

This form must be completed and submitted to the CDBG Program no less than ten (10) days prior to the beginning of the bid advertising process (i.e., bid call date). Form may be mailed, faxed or emailed.



START OF CONSTRUCTION NOTIFICATION

1. Project Number _____ Grantee _____
2. Bid Call (advertising start date) _____
3. Bid Opening Date _____
4. Contract Award Date _____
5. Federal Wage Decision # _____ modification # _____ Date _____
6. State Annual Wage Order # _____ Section _____ Incremental Increase
and Effective Date _____
8. Date Project Notification Report Submitted to MO Department of Labor _____
9. Date of Start of Construction _____
10. Total Amount of Contract (All Funding Sources) _____
11. Registered Name, Business Address, and employer tax I.D. number of General Contractor

12. Date of Debar/Contractor Clearance review _____
13. Local Labor Standards Designee _____
Phone Number _____
14. Contractor Payroll Contact _____
Phone Number _____
- E-mail address _____ E-mail address _____

Mail, email or FAX this notice within ten (10) days after award of contract to:

*BCS Compliance Team PO Box 118
Jefferson City, Missouri 65102
FAX: 573/526-4157*

MO 419-2918 (06-16)

FRINGE BENEFITS
CODE OF FEDERAL REGULATIONS
TITLE 29, SECTION 5.20-5.31

The 1964 amendments to the Davis-Bacon Act require that the prevailing wage determined for Federal and Federally assisted construction include (among other things) the following:

1. The basic hourly rate of pay; and
2. The amount contributed by the contractor/subcontractor for certain fringe benefits (or the cost to the contractor/subcontractor for such benefits).

Therefore, if the wage determination lists fringe benefits, the contractor/subcontractor must pay to the employee in cash or fringe benefits an amount that equals the total of the basic hourly rate and fringe appearing on the wage determination. Any combination of cash payments and fringes is allowed, provided that the part you provide in benefits is:

- A. Explained to all employees in writing
- B. Administered through a third party or through an actuarially sound, enforceable, unfunded commitment. (The Secretary of Labor may require unfunded plans to be held in a separate, special account.)
- C. If the employee works overtime, the premium must be computed on the basic hourly rate shown on the wage determination, even if the employer pays less than this amount in cash because of increased fringes.

In other words, if you take a credit on the basic hourly rate because you pay more in fringes than required by the wage determination, **you must revert back to the rate in the wage determination when computing and paying for overtime work.**

A fringe benefit is considered an employment benefit (such as a pension, paid holidays, health insurance, etc.) granted by an employer that involves a monetary cost without affecting the basic wage rates.

The Statutory provisions of fringe benefits under the Davis-Bacon Act are contained in Part 5.23. The fringe benefits provisions of the 1964 amendments to the Davis-Bacon Act include the following:

3. The rate of contribution is irrevocably made by a contractor/subcontractor to a trustee or to a third person pursuant to a plan, fund, or program. The “third person” must be one who is not affiliated with the contractor or subcontractor.
 - A. The trustee must assume the usual fiduciary responsibilities imposed upon trustees by applicable law. The trust or fund must be set up in such a way that in no event will the contractor/subcontractor be able to recapture any of the contributions paid in or in any way divert the funds to his own use or benefit.
 - B. “Plan, fund, or program” is merely intended to recognize the various types of arrangements commonly used to provide fringe benefits through employer contributions. The contribution for fringe benefits must be made pursuant to a plan, fund, or program (Section 1(b)(2)(A) of the Act).

4. The rate of costs to the contractor/subcontractor, which may be reasonably anticipated in providing benefits to laborers and mechanics, pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected.

The act lists all types of fringe benefits that Congress considered common in the construction industry as a whole. The following fringe benefits include where the contractor/subcontractor pays all or part of the amount for:

1. Medical or Hospital care
2. Pension on retirement or death
3. Life Insurance
4. Disability Insurance
5. Vacation and Holiday pay
6. Defrayment of costs of Apprenticeship or other similar programs
7. Other *bona fide* fringe benefits

Note: “Other *bona fide* fringe benefits” is the so-called “open-end” provision, included so that new fringe benefits may be recognized as they become prevailing in the construction industry.

The Act excludes fringe benefits that a contractor/subcontractor is required to provide under other Federal, State, or local law. No credit may be taken under the Act for the payments made for such benefits (e.g., payments for Workmen’s Compensation Insurance under either a compulsory or elective State statute are not considered payments for fringe benefits under the Act). **Also, payments made for travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.**

Only the amount of contributions or costs for fringe benefits, which meet the requirements of the Act, will be considered.

The rate of contribution or cost is ordinarily an hourly rate and will be reflected this way in the wage determination. When fringe benefits are prevailing for various classes of laborers and mechanics in the area of proposed construction, such benefits are includable in any Davis-Bacon Wage Determination. Wage determinations will not contain such benefits when such benefits are not prevailing in the area of construction.

A contractor/subcontractor performing work subject to Davis-Bacon may discharge his minimum wage obligations for the payment of both straight time wages and fringe benefits by paying in cash, making payments, or incurring costs for “*bona fide*” fringe benefits of the types listed in the applicable wage determination or otherwise found to be prevailing by the Secretary of Labor, or by a combination thereof.

Sometimes the contribution or cost for certain fringe benefits may be expressed in a formula or method of payment other than an hourly rate. In such cases the Secretary, at his discretion, may express in the wage determination that rate of contribution or cost used in the formula or method, or may convert it to an hourly rate of pay whenever it is found that such action would facilitate the administration of the Act.

Unfunded Plans (Part 5.28): There are no types of fringe benefits eligible for consideration as a so-called “unfunded plan” unless:

1. It could be reasonably anticipated to provide benefits described in the Act;
2. It represents a commitment that can be legally enforced;
3. It is carried out under a financially responsible plan or program; and
4. The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected.

The cost to a contractor/subcontractor, which may be reasonably anticipated in providing benefits of the types described in the Act, pursuant to an enforceable commitment to carry out a financially responsible plan or program, are considered fringe benefits within the meaning of the Act (Section 1(b)(2)(B) of the Act).

Legislative history suggests that these provisions were intended to permit the consideration of fringe benefits meeting these requirements, among others, and which are provided from general assets of a contractor/subcontractor.

It is in this manner that the Act provides for the consideration of “unfunded plans or programs” in finding prevailing wages and in ascertaining compliance with the Act.

There is a protection, however, against the use of this provision as a means of avoiding the Act’s requirements. The words “reasonably anticipated” are intended to require that any unfunded plan or program be able to withstand a test that can be described as one of actuarial soundness. As in the case of other fringe benefits payable under the Act, an unfunded plan must be “*bona fide*” and not a mere simulation or sham for avoiding compliance with the Act.



CERTIFICATION FOR APPLICABLE FRINGE BENEFIT PAYMENTS

PROJECT NAME: _____

PROJECT NUMBER: _____

Classification/Fringe Benefits Provided	Name, Address and Telephone Number of Plan/Fund/Program
Health and Welfare	
Pension	
Vacation	
Apprenticeship/Training	

OR: (Check if applicable.)

_____ I certify that I do not make payments to approved fringe benefit plans, funds or programs.

Contractor/Subcontractor

Signature

Date

Title

MO 419-2879 (05-07)

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U.S. Department of Labor
Employment Standards
Administration, Wage and Hour
Division

(For Contractor's Optional Use; See Instructions at www.dol.gov/esalwhd/forms/wh347instr.htm)



U.S. Wage and Hour Division

Rev. Dec. 2008

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/> IRS # _____					ADDRESS _____										OMS No.: 1215-0149 Expires: 12/31/2011				
PAYROLL NO. _____					FOR WEEK ENDING _____					PROJECT AND LOCATION _____					PROJECT OR CONTRACT NO. _____				

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE	(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK							
														FICA	WITH- HOLDING TAX			OTHER	TOTAL DEDUCTIONS	
							HOURS WORKED EACH DAY													
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room 53502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

CDBG Administrative Manual
Labor Standards

Date _____

I, _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)
_____ ; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,
all persons employed on said project have been paid the full weekly wages earned, that no rebates have
been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the
applicable wage rates contained in any wage determination incorporated into the contract; that the
classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide
apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of
Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a
State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ — in addition to the basic hourly wage rates paid to each laborer or mechanic listed in
the above referenced payroll, payments of fringe benefits as listed in the contract
have been or will be made to appropriate programs for the benefit of such
employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ — Each laborer or mechanic listed in the above referenced payroll has been paid,
as indicated on the payroll, an amount not less than the sum of the applicable
basic hourly wage rate plus the amount of the required fringe benefits as listed
in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE

SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE
31 OF THE UNITED STATES CODE.

* U.S. G.P.O.:1997 519.861

WAGE AND HOUR DIVISION (WHD)

INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347

- [WH-347](#) (PDF)
OMB Control No. 1215-0149, Expires 12/31/2011.
Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

General: Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory

Project or Contract No.: Self-explanatory

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who

earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "*See Deductions column in this payroll.*" *See "FRINGE BENEFITS"* below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See the paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Public Burden Statement: We estimate that it will take an average of 55 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Note: In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at www.adobe.com/products/acrobat/readstep2.html. To save the completed forms on your workstation, you need to use the "Save As" method to save the file. For example, move your mouse cursor over the PDF link and click on your "RIGHT" mouse button. This will cause a menu to be displayed, from which you will select the proper save option -- depending upon which browser you are using:

- For Microsoft IE users, select "Save Target As"
- For Netscape Navigator users, select "Save Link As"

Once you've selected the proper save option for your browser, and have saved the file to a location you specified, go to your program menu and start the Adobe Acrobat® Reader. Once open, locate the PDF file you saved and open it directly in Acrobat®.

HOW TO COMPLETE PAYROLL FORMS (FRONT SECTION)

Enter IRS number on first payroll

Check correct box.

PAYROLL

(For Contractor's Optional Use; See instruction, Form WH-347 Inst.)

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>				IRS NUMBER				ADDRESS							
Alhollon Electric				24168415				1107 Orange Place, Columbia, Maryland							
PAYROLL NO.				FOR WEEK ENDING				PROJECT AND LOCATION				PROJECT OR CONTRACT NO.			
1				April 11, 1992				Kings Village				47966120			

Payrolls must be numbered sequentially. Write the word "Final" after the number on your last payroll.

Enter days & week work was performed.

Overtime:
 1. Hours on this project contract meeting the overtime definition
 2. Total overtime

Specify:
 1. Types of deductions
 2. Total deductions withheld

(1) Name, and Individual Identifying number (e.g. Last Four Digits of Social Security Number)	(2) No. of withholding exemptions	(3) Work Classification	OT Or ST	(4) Day and Date							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK	
				W	T	F	S	S	M	T				FICA	WITH-HOLDING TAX			OTHER	TOTAL		
				13	14	15	16	17	18	19											
Lee Baskey xxxx		Cement Mason	O	2	2	2				2	2	10	15.00	550.00	42.00	35.21	4.50	2.62	1.31	85.61	464.33
			S	8	8	8				8	8	40	10.00	725.00							

Address and Social Security number are NO LONGER required.

Fill in the classification exactly as it appears on the determination. If classification is for a power equipment operator, indicate type, size, and horsepower.

Straight time:
 1. Daily hours worked on this contract up to 40 per week.
 2. Total straight time.

Upper Left reflects amount on this project. Lower Right reflects amount earned on all projects during work-week.

Enter gross, all deductions, and net. Check your figures; subtract the total amount withheld from the total gross. The answer should equal the total in Column 4.

INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in *lieu* of fringes.

The contractor should **show on the first page of his payroll all monies paid to the employees** whether as basic rates or as cash in *lieu* of fringes. The contractor shall represent in the statement of compliance that **he is paying to others** fringes required by the contract and not paying as cash in *lieu* of fringes. Detailed instructions follow:

Contractors who pay all required fringe benefits

A contractor who pays fringe benefits to approved plans, funds, or programs, in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees. The contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

Contractors who pay no fringe benefit

Contractors who pay no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of his payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Since it is not necessary to pay time and a half on cash paid in *lieu* of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate, plus the required cash in *lieu* of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column (example \$3.25/.40). In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in *lieu* of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in *lieu* of fringes and the hourly amount paid to plans, funds, or programs as fringes.

CDBG Administrative Manual
Labor Standards

Record of Employee Interview

**U.S. Department of Housing
and Urban Development
Office of Labor Relations**

OMB Approval No. 2501-0009
(exp. 08/31/2007)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits? Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
CONFIDENTIAL					
8. Are you an apprentice or trainee? Y <input type="checkbox"/> N <input type="checkbox"/>		10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week? Y <input type="checkbox"/> N <input type="checkbox"/>		9. Are you paid for all hours worked? Y <input type="checkbox"/> N <input type="checkbox"/>	
12a. Employee Signature		12b. Date			
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

Payroll Examination

16. Remarks

17a. Signature of Payroll Examiner	17b. Date
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CDBG Administrative Manual Labor Standards

Instructions

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Relations staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11

Items 1a - 1c: Self-explanatory

Items 2a - 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a - 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 - 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) - responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 - 12b: Self-explanatory

Items 13 - 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 - 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

CDBG Administrative Manual
Labor Standards

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE		HUD FORM 4230A <small>OMB Approval Number 2501-0011 (Exp. 09/30/2006)</small>				
1. FROM (name and address of requesting agency)	2. PROJECT NAME AND NUMBER					
	3. LOCATION OF PROJECT (City, County and State)					
4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway					
6. WAGE DECISION NO. (include modification number, if any) <input type="checkbox"/> COPY ATTACHED		7. WAGE DECISION EFFECTIVE DATE				
8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; text-align: center; border-bottom: 1px solid black;">BASIC WAGE</th> <th style="width: 50%; text-align: center; border-bottom: 1px solid black;">FRINGE BENEFIT(S) (if any)</th> </tr> <tr> <td style="height: 150px;"></td> <td></td> </tr> </table>		BASIC WAGE	FRINGE BENEFIT(S) (if any)		
BASIC WAGE	FRINGE BENEFIT(S) (if any)					
9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)					
Check All That Apply: <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision.						
Check One: <input type="checkbox"/> Approved, meets all criteria. DOL confirmation requested. <input type="checkbox"/> One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.						
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> _____ Agency Representative <small>(Typed name and signature)</small> </div> <div style="width: 45%;"> _____ <i>Date</i> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> _____ <i>Phone Number</i> </div> <div style="width: 45%;"></div> </div>		FOR HUD USE ONLY LR2000: Log in: Log out:				

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE

CDBG Administrative Manual
Labor Standards

Report of Additional Classification and Wage Rate	U.S. Department of Housing and Urban Development Office of Labor Relations	OMB Approval No. 2501-0011 (Exp. 09/30/2006)
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Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

Instructions

General:

Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer's request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, New construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer's request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in "checklist" form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, *and* a cover letter explaining how the employer's request failed to meet one or more of the criteria.

Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-3014, Washington, DC 20210.

**SPECIALTY CLASSES THAT SHOULD NOT BE REQUESTED
IF THE DUTIES ARE PERFORMED BY GENERAL CRAFTS
IN THE CONTRACT WAGE DETERMINATION**

SPECIALTY (often requested by contractors)	GENERAL CRAFT (may perform the specialty duties)
Drywall (sheetrock) installers	Carpenters
Drywall finishers/tapers	Painters
Alarm installers Sound and communication workers/installers Electronic technicians Lightning protection installers Low voltage installers	Electricians
HVAC mechanics (heating, ventilation and air conditioning mechanics) Refrigeration mechanics/workers Furnace installers Burner repairmen	Sheet metal workers Plumbers Pipe fitters/steam fitters Electricians
Pipe wrappers/insulators Mechanical (system) insulators	Asbestos workers/heat & frost insulators
Batt insulation installers Blown insulation installers	Carpenters Laborers
Asbestos removal from pipes and boilers that will be reinsulated	Asbestos workers/heat & frost insulators
Asbestos removal – except from pipes and boilers that will be reinsulated	Laborers
Metal building assemblers/builders/erectors	Iron workers Laborers Sheet metal workers Carpenters
Fence erectors	Ironworkers Laborer
Rebar workers Rodman (performing rebar work) Steel setters Steel or iron tiers	Ironworkers (reinforcing) Cement workers Laborers
TV-grout operators	Power equipment operators Laborers Truck drivers

CDBG Administrative Manual
Labor Standards

U.S. Department of Labor, Office of Apprenticeship

U.S. DEPARTMENT OF LABOR - OFFICE OF APPRENTICESHIP
APPRENTICESHIP CERTIFICATION

J. BATHE ELECTRIC
71 TRIAD SOUTH DRIVE
ST. CHARLES, MO 63304

The following individuals are apprentices registered with the U.S. Department of Labor, Office of Apprenticeship, under the sponsorship of Program Number MO003410001:

IBEW/NECA JOINT APPRENTICESHIP PROGRAM
2300 HAMPTON AVENUE
ST LOUIS, MO 63139

APPRENTICE ID	SSN	APPRENTICE NAME	OCCUPATION	DATE APPRENTICESHIP BEGAN	DATE CANCELLED (If applicable)	DATE COMPLETED (If applicable)
MO11N046781	*****8718	JAMES JONES	RESIDENTIAL ELECTRICAL WIREMAN	08/01/2011		
MO11N046880	*****0377	ADAM MOLITOR	RESIDENTIAL ELECTRICAL WIREMAN	08/10/2011		

CERTIFIED BY:

DATE ISSUED:



Signature on file

07/14/2011

STEPHANIE SCHMITT (MO008)

Apprenticeship Training Representative

*****VOID 90 DAYS FROM ISSUE DATE*****

7/15/11 9:18 AM

Page 1 of 1

CDBG Administrative Manual Labor Standards

Item 4.a. Definitions:

Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

Item 4.b. Definitions:

American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Items 7. Instructions:

Indicate any career linkage (definitions follow) or direct entry. Entry "None" if no career linkage or direct entry apply. Enter "Incumbent Worker" if the individual before becoming an apprentice was currently employed full-time by the sponsor or entities participation in apprenticeship program. Career linkage includes participation in programs that provided employment, training and other services to adults, youth and dislocated workers. Funds for these activities are provided by the U.S. Department of Labor/Employment and Training Administration to states and local communities

Adult. Also includes individuals participating in Native American Programs, and/or Migrant and Seasonal Farmworker Programs.

Youth. Includes Youth ages 16-24 years, and other concentrated Youth programs in designated areas.

Dislocated Workers. Includes an individual that has been terminated or laid off and is unlikely to return to the industry or occupation. It also includes a displaced homemaker who has been providing unpaid services to family members in the home, is no longer supported, and is unemployed or underemployed.

Job Corps. Youth ages 16-24 years usually receiving services in a residential setting.

School-to-Registered Apprenticeship. Program designed to allow high school youth ages 16-17 to enter a Registered Apprenticeship program and continue after graduation will full credit given for the high school portion.

HUD/STEP-UP. Developed in conjunction with the U.S. Department of Housing and Urban Development (HUD). The program provides the actual apprenticeship experience and the framework for moving into high-skill Registered Apprenticeship.

Direct Entry. A graduate from an accredited technical training school, Job Corps training program or a participant in a military apprenticeship program, any of which training is specifically related to the occupation and incorporated in the Registered Apprenticeship standards. Also, fill in the name of the program.

Item 18. Wage Instructions

18a. Pre-Apprentice Hourly Wage, sponsor enters the hourly wage in the quarter prior to becoming an apprentice.

18b. Term, sponsor enters in each box the apprentice schedule of pay for each advancement period.

18c. Percent, sponsor enters, preferably, the percent of journeyworker's wage.

18d. Journeyworker's wage, sponsor enters date and wage per hour.

18e. Apprentice entry hourly wage, (hourly dollar amount paid) sponsor enters apprentice hourly wage.

Note:

18b. The employer agrees to pay the hourly wage rate identified in this section to the apprentice each period of the apprenticeship based on the successful completion of the on-the-job training and the related instruction outlined in the Apprenticeship Standards. The period may be expressed in hours, months, or years.

18c. The wage rates preferably are expressed in percent of journeyworker's wage, but may also be expressed in dollars and cents, depending on the industry.

18d. If the employer is signatory to a collective bargaining agreement, the journeyworkers wage rate in the applicable collective bargaining agreement is identified. Apprenticeship program sponsors not covered by a collective bargaining agreement must identify a minimum journeyworker's hourly rate that will be the basis for the progressive wage schedule identified in item 18.c., of this agreement.

Example – 3 YEAR APPRENTICESHIP PROGRAM

Term	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6
hrs, mos, yrs.	1000 hrs.	1000 hrs.	1000 hrs.	1000 hrs.	1000 hrs.	1000 hrs.
%	55	60	65	70	80	90

Example – 4 YEAR APPRENTICESHIP PROGRAM

Term	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8
hrs, mos, yrs.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.	6 mos.
%	50	55	60	65	70	75	80	90

Item 25. Definition:

The apprentice identification number is a unique number generated by the Registered Apprenticeship Information System (the OATELS' data-base), which is used to identify the apprentice. It replaces the social security number to protect the apprentice's privacy.

*The submission of your social security number is voluntary. For purposes of the Davis Bacon Act of 1931, as amended, U.S. Code Title 40, Sections 276a to 276a-7, and Title 29 CFR 5, your social security number will be used to verify and certify to the U.S. Department of Labor, Employment Standards Administration, that you are a registered apprentice to ensure that the employer is complying with the geographic prevailing wage of your occupational classification. It will be used to verify your periods of employment and wages for purposes of complying with Memorandum M-02-06 of the Office of Management and Budget related to the President's Management Agenda for performance and budget integration of Federal Programs. Your response is voluntary. Failure to disclose your social security number on this form will not affect your right to be registered as an apprentice. Civil and criminal provision of the Privacy Act apply to any unlawful disclosure of your social security number, which is prohibited.

The collection and maintenance of the data on ETA-671, Apprenticeship Agreement Form, is authorized under the National Apprenticeship Act, 29 U.S.C. 50, and Code of Federal Regulations 29 Part 29.1. The data is used for apprenticeship program statistical purposes and is maintained, pursuant to the Privacy Act of 1974 (5 U.S.C. 552a.), in a system of records entitled, DOL/ETA-4, Apprenticeship Management System (AMS), at the Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor. Data may be disclosed to a State Apprenticeship Council to determine an assessment of skill needs and program information, and in connection with federal litigation or when requested by law.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Apprenticeship Training, Employer and Labor Services, 200 Constitution Avenue, N.W., Room N-4671, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0223).

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

MO Department of Economic Development
BCS Compliance Team
PO Box 118
Jefferson City, MO 65102-0118
Phone: (573)-751-3600

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

Equal Employment Opportunity is **THE LAW**

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

GENETICS

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

RETALIATION

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within

three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

RETALIATION

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

INDIVIDUALS WITH DISABILITIES

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

You Have a Right to a Safe and Healthful Workplace. **IT'S THE LAW!**

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in the inspection.
- You can file a complaint with OSHA within 30 days of discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have a right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violation.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records or records of your exposure to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.



The *Occupational Safety and Health Act of 1970 (OSH Act)*, P.L. 91-596, assures safe and healthful working conditions for working men and women throughout the Nation. The Occupational Safety and Health Administration, in the U.S. Department of Labor, has the primary responsibility for administering the *OSH Act*. The rights listed here may vary depending on the particular circumstances. To file a complaint, report an emergency, or seek OSHA advice, assistance, or products, call 1-800-321-OSHA or your nearest OSHA office: • Atlanta (404) 562-2300 • Boston (617) 565-9860 • Chicago (312) 353-2220 • Dallas (214) 767-4731 • Denver (303) 844-1600 • Kansas City (816) 426-5861 • New York (212) 337-2378 • Philadelphia (215) 861-4900 • San Francisco (415) 975-4310 • Seattle (206) 553-5930. Teletypewriter (TTY) number is 1-877-889-5627. To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website at www.osha.gov. If your workplace is in a state operating under an OSHA-approved plan, your employer must post the required state equivalent of this poster.

1-800-321-OSHA www.osha.gov

U.S. Department of Labor • Occupational Safety and Health Administration • OSHA 3165

MISSOURI PREVAILING WAGE LAW

290.210. Definitions.

As used in sections 290.210 to 290.340, unless the context indicates otherwise:

- (1) "**Construction**" includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair.
- (2) "**Department**" means the department of labor and industrial relations.
- (3) "**Locality**" means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled workmen to construct the public works efficiently and properly, "locality" may include two or more counties adjacent to the one in which the work or construction is to be performed and from which such workers may be obtained in sufficient numbers to perform the work, and that, with respect to contracts with the state highways and transportation commission, "locality" may be construed to include two or more adjacent counties from which workmen may be accessible for work on such construction.
- (4) "**Maintenance work**" means the repair, but not the replacement, of existing facilities when the size, type or extent of the existing facilities is not thereby changed or increased.
- (5) "**Prevailing hourly rate of wages**" means the wages paid generally, in the locality in which the public works is being performed, to workmen engaged in work of a similar character including the basic hourly rate of pay and the amount of the rate of contributions irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan or program, and the amount of the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workmen and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workmen affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal or state law to provide any of the benefits; provided, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the department, insofar as sections 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the making of irrevocable contributions to trustees or third persons as provided herein, by the assumption of an enforceable commitment to bear the costs of a plan or program as provided herein, or any combination thereof, where the aggregate of such payments, contributions and costs is not less than the rate of pay plus the other amounts as provided herein.

(6) "**Public body**" means the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds.

(7) "**Public works**" means all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. It also includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility. It does not include any work done for or by any drainage or levee district.

(8) "**Workmen**" means laborers, workmen and mechanics.

290.220. Policy declared.

It is hereby declared to be the policy of the state of Missouri that a wage of no less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed shall be paid to all workmen employed by or on behalf of any public body engaged in public works exclusive of maintenance work.

290.230. Prevailing wage rates required on construction of public works.

1 Not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work, shall be paid to all workmen employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work. Only such workmen as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works.

2 When the hauling of materials or equipment includes some phase of construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed employed directly on public works.

290.240. Department of labor and industrial relations to enforce - make regulations.

1 The department shall inquire diligently as to any violation of sections 290.210 to 290.340, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 290.210 to 290.340.

2 The department may establish rules and regulations for the purpose of carrying out the provisions of sections 290.210 to 290.340.

290.250. Prevailing wage, incorporation into contracts - failure to pay, penalty complaints of violation, public body or prime contractor to withhold payment.

Every public body authorized to contract for or construct public works, before advertising for bids or undertaking such construction shall request the department to determine the prevailing rates of wages for workmen for the class or type of work called for by the public works, in the locality where the work is to be performed. The department shall determine the prevailing hourly rate of wages in the locality in which the work is to be performed for each type of workman required to execute the contemplated contract and such determination or schedule of the prevailing hourly rate of wages shall be attached to and made a part of the specifications for the work. The public body shall then specify in the resolution or ordinance and in the call for bids for the contract, what is the prevailing hourly rate of wages in the locality for each type of workman needed to execute the contract and also the general prevailing rate for legal holiday and overtime work. It shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, to pay not less than the specified rates to all workmen employed by them in the execution of the contract. The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing hourly rate of wages shall be paid to all workmen performing work under the contract. It shall also require in all contractors' bonds that the contractor include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract. The contractor shall forfeit as a penalty to the state, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded ten dollars for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under said contract, by him or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of all complaints of all violations of the provisions of sections 290.210 to 290.340 committed in the course of the execution of the contract, and, when making payments to the contractor becoming due under said contract, to withhold and retain therefrom all sums and amounts due and owing as a result of any violation of sections 290.210 to 290.340. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of said subcontractor's failure to comply with the terms of sections 290.210 to 290.340, and if payment has already been made to him, the contractor may recover from him the amount of the penalty in a suit at law.

290.260. Determination of hourly rate for highways and transportation commission, when made, where filed, objections, hearing, determination.

1. The department, as it deems necessary, shall from time to time investigate and determine the prevailing hourly rate of wages in the localities. A determination applicable to every locality to be contained in a general wage order shall be made annually on or before July first of each

year for the Missouri state highways and transportation commission and shall remain in effect until superseded by a new general wage order. In determining prevailing rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality.

2. A certified copy of the determination so made shall be filed immediately with the secretary of state and with the department in Jefferson City. Copies shall be supplied by the department to all persons requesting them within ten days after the filing.

3. At any time within thirty days after the certified copies of the determinations have been filed with the secretary of state and the department, any person who is affected thereby may object in writing to the determination or the part thereof that he deems objectionable by filing a written notice with the department, stating the specific grounds of the objection.

4. Within thirty days of the receipt of the objection, the department shall set a date for a hearing on the objection. The date for the hearing shall be within sixty days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing.

5. The department at its discretion may hear each written objection separately or consolidate for hearing any two or more written objections. At the hearing the department shall first introduce in evidence the investigation it instituted and the other facts which were considered at the time of the original determination which formed the basis for its determination. The department, or the objector, or any interested party, thereafter may introduce any evidence that is material to the issues.

6. Within twenty days of the conclusion of the hearing, the department must rule on the written objection and make the final determination that it believes the evidence warrants. Immediately, the department shall file a certified copy of its final determination with the secretary of state and with the department and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.

7. This final decision of the department of the prevailing wages in the locality is subject to review in accordance with the provisions of chapter 536, RSMo. Any person affected, whether or not the person participated in the proceedings resulting in the final determination, may have the decision of the department reviewed. The filing of the final determination with the secretary of state shall be considered a service of the final determination on persons not participating in the administrative proceedings resulting in the final determination.

8. At any time before trial any person affected by the final determination of the department may intervene in the proceedings to review under chapter 536, RSMo, and be made a party to the proceedings.

9. All proceedings in any court affecting a determination of the department under the provisions of sections 290.210 to 290.340 shall have priority in hearing and determination over all other civil proceedings pending in the court, except election contests.

290.262. Determination of hourly rate by location and occupation title, when made, where filed - objections, hearings - final determination - notice to department by public body, when.

1. Except as otherwise provided in section 290.260, the department shall annually investigate and determine the prevailing hourly rate of wages in each locality for each separate occupational title. A final determination applicable to every locality to be contained in an annual wage order shall be made annually on or before July first of each year and shall remain in effect until superseded by a new annual wage order or as otherwise provided in this section. In determining prevailing rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality, and shall, by March tenth of each year, make an initial determination for each occupational title within the locality.

2. A certified copy of the initial determinations so made shall be filed immediately with the secretary of state and with the department in Jefferson City. Copies shall be supplied by the department to all persons requesting them within ten days after the filing.

3. At any time within thirty days after the certified copies of the determinations have been filed with the secretary of state and the department, any person who is affected thereby may object in writing to a determination or a part thereof that he deems objectionable by filing a written notice with the department, stating the specific grounds of the objection. If no objection is filed, the determination is final after thirty days.

4. After the receipt of the objection, the department shall set a date for a hearing on the objection. The date for the hearing shall be within sixty days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing.

5. The department at its discretion may hear each written objection separately or consolidate for hearing any two or more written objections. At the hearing the department shall first introduce in evidence the investigation it instituted and the other facts which were considered at the time of the original determination which formed the basis for its determination. The department, or the objector, or any interested party, thereafter may introduce any evidence that is material to the issues.

6. Within twenty days of the conclusion of the hearing, the department shall rule on the written objection and make the final determination that it believes the evidence warrants. Immediately, the department shall file a certified copy of its final determination with the secretary of state and with the department and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.

7. This final decision of the department of the prevailing wages in the locality for each occupational title is subject to review in accordance with the provisions of chapter 536, RSMo. Any person affected, whether or not the person participated in the proceedings resulting in the final determination, may have the decision of the department reviewed. The filing of the final determination with the secretary of state shall be considered a service of the final determination on persons not participating in the administrative proceedings resulting in the final determination.

8. At any time before trial any person affected by the final determination of the department may intervene in the proceedings to review under chapter 536, RSMo, and be made a party to the proceedings.

9. Any annual wage order made for a particular occupational title in a locality may be altered once each year, as provided in this subsection. The prevailing wage for each such occupational title may be adjusted on the anniversary date of any collective bargaining agreement, which covers all persons in that particular occupational title in the locality in accordance with any annual incremental wage increases set in the collective bargaining agreement. If the prevailing wage for an occupational title is adjusted pursuant to this subsection, the employee's representative or employer in regard to such collective bargaining agreement shall notify the department of this adjustment, including the effective date of the adjustment. The adjusted prevailing wage shall be in effect until the next final annual wage order is issued pursuant to this section. The wage rates for any particular job, contracted and commenced within sixty days of the contract date, which were set as a result of the annual or revised wage order, shall remain in effect for the duration of that particular job.

10. In addition to all other reporting requirements of sections 290.210 to 290.340, each public body which is awarding a contract for a public works project shall, prior to beginning of any work on such public works project, notify the department, on a form prescribed by the department, of the scope of the work to be done, the various types of craftsmen who will be needed on the project, and the date work will commence on the project.

290.263. Hourly wage must equal or exceed federal minimum wage.

The hourly wages to be paid as prescribed in section 290.250 to workmen upon public works shall not be less than the minimum wage specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

290.265. Wage rates posted, where.

A clearly legible statement of all prevailing hourly wage rates to be paid to all workmen employed in order to execute the contract and employed on the construction of the public works shall be kept posted in a prominent and easily accessible place at the site thereof by each contractor and subcontractor engaged in the public works projects under the provisions of this law and such notice shall remain posted during the full time that any such workman shall be employed on the public works.

290.270. Declaration as to prevailing wages final - maximum wages and hours not limited.

The finding of the department ascertaining and declaring the prevailing hourly rate of wages shall be final for the locality, unless reviewed under the provisions of sections 290.210 to 290.340. Nothing in sections 290.210 to 290.340, however, shall be construed to prohibit the payment to any workman employed on any public work of more than the prevailing rate of wages. Nothing in sections 290.210 to 290.340 shall be construed to limit the hours of work which may be performed by any workman in any particular period of time.

290.280. Administration of oaths - subpoenas - enforcement of subpoenas.

The authorized representative of the department may administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, records, and other evidence relative to any matter under investigation or hearing. The subpoena shall be signed and issued by the department's authorized representative. In case of failure of any person to comply with any subpoena lawfully issued under this section, or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, the authorized representative of the department may proceed to enforce obedience to the subpoenas in the manner provided by section 536.077, RSMo, for administrative agencies. The authorized representative of the department shall have the power to certify to official acts.

290.290. Contractor's payroll records, contents - affidavit of compliance required - signs on motor vehicles and equipment, requirements - temporary stationary sign, when exception.

1. The contractor and each subcontractor engaged in any construction of public works shall keep full and accurate records clearly indicating the names, occupations and crafts of every workman employed by them in connection with the public work together with an accurate record of the number of hours worked by each workman and the actual wages paid therefor. The payroll records required to be so kept shall be open to inspection by any authorized representative of the contracting public body or of the department at any reasonable time and as often as may be necessary and such records shall not be destroyed or removed from the state for the period of one year following the completion of the public work in connection with which the records are made.

2. Each contractor and subcontractor shall file with the contracting public body upon completion of the public work and prior to final payment therefor an affidavit stating that he had fully complied with the provisions and requirements of this chapter, and no public body shall be authorized to make final payment until such affidavit is filed therewith in proper form and order.

3. Each contractor and subcontractor engaged in any construction of public works shall have its name, acceptable abbreviation or recognizable logo and the name of the city and state of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled piece of equipment which is used in connection with such public works project during the time the contractor or subcontractor is engaged on such project. The sign shall be legible from a distance of twenty feet but the size of the lettering need not be larger than two inches. In cases where equipment is leased or where affixing a legible sign to the equipment is impractical, the contractor may place a temporary stationary sign, with the information required pursuant to this subsection, at the main entrance of the construction project in place of affixing the required information on the equipment so long as such sign is not in violation of any state or federal statute, rule or regulation. Motor vehicles which are required to have similar information affixed thereto pursuant to requirements of a regulatory agency of the state or federal government are exempt from the provisions of this subsection.

4. The provisions of subsection 3 of this section shall not apply to construction of public works for which the contract awarded is in the amount of two hundred fifty thousand dollars or less.

290.300. Actions for prevailing wages by workman authorized.

Any workman employed by the contractor or by any subcontractor under the contractor who shall be paid for his services in a sum less than the stipulated rates for work done under the contract, shall have a right of action for double whatever difference there may be between the amount so paid and the rates provided by the contract together with a reasonable attorney's fee to be determined by the court, and an action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages.

290.305. Rebates by workmen prohibited, exception.

No person, firm or corporation shall violate the wage provisions of any contract contemplated in sections 290.210 to 290.340 or suffer or require any employee to work for less than the rate of wages so fixed, or violate any of the provisions contained in sections 290.210 to 290.340. Where workmen are employed and their rate of wages has been determined as provided in sections 290.210 to 290.340, no person, either for himself or any other person, shall request, demand or receive, either before or after such workman is engaged, that such workman pay back, return, donate, contribute, or give any part or all of said workman's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent such workman from procuring or retaining employment, and no person shall, directly or indirectly, pay, request or authorize any other person to violate this section. This section does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

290.315. Deductions from wages, agreement to be written, approval of public body required.

All contractors and subcontractors required in sections 290.210 to 290.340 to pay not less than the prevailing rate of wages shall make full payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of said term of employment covering deductions for food, sleeping accommodations, or other similar items, provided such agreement is submitted by the employer to the public body awarding the contract and the same is approved by such public body as fair and reasonable.

290.320. Advertising for bids before prevailing wage is determined prohibited.

No public body, officer, official, member, agent or representative authorized to contract for public works shall fail, before advertising for bids or contracting for such construction, to have the department determine the prevailing rates of wages of workmen for each class of work called for by the public works in the locality where the work is to be performed as provided in sections 290.210 to 290.340.

290.325. Awarding contract or payment without prevailing wage determination prohibited.

No public body, officer, official, member, agent or representative thereof authorized to contract for public works shall award a contract for the construction of such improvement or disburse any funds on account of the construction of such public improvement, unless such public body has first had the department determine the prevailing rates of wages of workmen for the class of work called for by such public works in the locality where the work is to be performed and such determination has been made a part of the specifications and contract for such public works.

290.330. Convicted violators of sections 290.210 to 290.340 listed, effect of.

The department after investigation, upon complaint or upon its own initiative, shall file with the secretary of state a list of the contractors and subcontractors who it finds have been prosecuted and convicted for violations of sections 290.210 to 290.340 and such contractor or subcontractor, or simulations thereof, shall be prohibited from contracting directly or indirectly with any public body for the construction of any public works or from performing any work on the same as a contractor or subcontractor for a period of one year from the date of the first conviction for such violation and for a period of three years from the date of each subsequent violation and conviction thereof. No public body shall award a contract for a public works to any contractor or subcontractor, or simulation thereof, during the time that its name appears on said list. The filing of the notice of conviction with the secretary of state shall be notice to all public bodies and their officers, officials, members, agents and representatives.

290.335. Notice of violation, failure to comply, attorney general shall sue, injunctive relief authorized.

If it is found that a public body, contractor or subcontractor has not complied with any of the terms of sections 290.210 to 290.340, the department shall give notice of the precise violation in writing to such public body, contractor or subcontractor. Sufficient time may be allowed for compliance therewith as the department deems necessary. After the expiration of the time prescribed in said notice, the department may in writing inform the attorney general of the fact that such notice has been given and that the public body, contractor or subcontractor or the authorized representative or agent thereof to whom it was directed has not complied with such notice. Upon receipt thereof, the attorney general shall at the earliest possible time bring suit in the name of the state in the circuit court of the county in which such public body is located or where any such contractor or subcontractor is engaged in any public works to enjoin the award of such contract for a public works, or any further work or payments thereunder if the contract has been awarded, until the requirements of such notice are fully complied with. The court may issue a temporary restraining order with due notice to the defendant in such action. The plaintiff shall in any such injunctive action post an adequate bond to be set by the circuit judge. Upon final hearing thereof, if the court is satisfied that the requirements of the notice by the department to the defendant were not unreasonable or arbitrary, it shall issue an order enjoining the awarding of such contract for a public works, or any further work or payments thereunder if the contract has been awarded, until the notice is fully complied with. Such injunction shall continue operative until the court is satisfied that the requirements of such notice have been complied with and the court shall have and exercise with respect to the enforcement of such injunctions all the power in it in other similar cases. Both the plaintiff and defendant in such action have the same rights of appeal as are provided by law in other injunction proceedings.

290.340. Penalty for violation.

Any officer, official, member, agent or representative of any public body, contractor or subcontractor who willfully violates and omits to comply with any of the provisions and requirements of sections 290.210 to 290.340 shall be punished for each violation thereof by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each day such violation or omission continues shall constitute a separate offense as contemplated by this section.

THE MISSOURI OCCUPATIONAL TITLE RULE IN THE CONSTRUCTION OF PUBLIC WATER DISTRIBUTION SYSTEMS: DETERMINING THE CORRECT WAGE RATE

By Jim Boeckman, Division of Labor Standards

In Missouri, occupational titles are defined by rule. See 8 CSR 30-3.060. To determine the wage rate owed to a worker, the tasks performed by the worker must be identified. The tasks are then located in the rule, and the rate associated with that title is the rate owed.

The Division of Labor Standards has consistently maintained that the installation of pressurized pipe includes all tasks necessary to complete the project that are not part of any other occupational title definition. This standard is simple to apply. A contractor should review the occupational titles for the task being performed by the worker and pay the wage rate that corresponds to the title where the task is found.

The Division's basic premise is that a task is paid the wage rate for the occupational title in which it is found. If a specific task in the pressurized pipe installation process is not found in any other occupational title, then it falls under the definition of installation in the occupational title of pipe fitter.

Although we recognize that this may not be a complete list of tasks for the installation of pressurized pipe, the following tasks fall under the occupational titles listed below:

Task	Occupational Title
Unloading pipe from a truck by hand, either along the trench or at a stock pile	Laborer
Unloading pipe with machinery (i.e., backhoe)	Operating Engineer
Moving of pipe from one location to another with machinery	Operating Engineer
Digging of the trench with machinery (i.e., backhoe)	Operating Engineer
Digging of the trench by hand	Laborer
Handling of the pipe by machine	Operating Engineer
Rigging of pipe, connecting or disconnecting, in a sling from either a truck or to place in the trench	Pipe Fitter
Placement of the pipe in a trench, other than by use of a machine	Pipe Fitter
Guiding, lubricating/soaping, installation of gaskets, and polywrapping of pipe	Pipe Fitter
Alignment, proper elevation, and joining/connecting pipe	Pipe Fitter
Back filling or adding gravel to the trench by hand	Laborer
Back filling with machinery (i.e., backhoe)	Operating Engineer

The Division does not differentiate between work being performed inside or outside of the trench to define which tasks are part of installation.

Any other work involved in the project to install pressurized pipe from the time of initial award of the bid until completion that is not specifically identified in another occupational title is considered to be a part of installation under the occupational title of pipe fitter.

Work in connection with nonpressurized pipelines that is not specifically identified in another occupational title is considered to fall within the occupational title of general laborer.

Workers are to be paid the appropriate wage rate for the type of work performed. A worker's pay rate may vary throughout the day if he or she performs tasks that fall under multiple occupational titles. Certified payroll records should list, among other things, the occupational title(s) and the number of hours the task was performed by the worker. Overtime situations will be looked at on a case-by-case basis, but normally the appropriate overtime rate should be paid at the rate based on the type of work being performed when the overtime hours are worked.

The Missouri Prevailing Wage Law and Rules can be found on the web at <http://www.labor.mo.gov>. Requests for copies of brochures and any questions you may have can be directed to the Division of Labor Standards by calling 1-800-475-2130.

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MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS

REQUEST FOR WAGE DETERMINATION

PLEASE RETURN TO: Division of Labor Standards
Attn: Prevailing Wage Section
P.O. Box 449
Jefferson City, MO 65102-0449

Phone: 573-751-3403
Fax: 573-751-3721
E-mail: prevailingwage@dolir.mo.gov
Website: www.dolir.mo.gov/lr

REQUESTER INFORMATION

I am requesting a wage determination according to Chapter 290 of the Missouri Prevailing Wage Law (sections 290.210 through 290.340 and 290.550 through 290.580 RSMo).

Name of Requester (<i>please print</i>)		Requester's Title	
Requester's Organization		Phone Number (<i>include Area Code</i>)	
Mailing Address		E-mail Address	
City	State	Zip Code	

PUBLIC BODY INFORMATION

Contact Person at Public Body			
Official Name of the Public Body requesting the wage rates		Phone Number (<i>include Area Code</i>)	
Street Address		E-mail Address	
City	State	Zip Code	

FUNDING INFORMATION

Will the federal government or any of its agencies furnish loans or grants for any part of the funds used in your contracts?

☐ Yes ☐ No

If "Yes," will the federal government or any of its agencies also prescribe a schedule of Prevailing Wage Rates?

☐ Yes ☐ No

COUNTY(IES) REQUESTED

Please list county(ies) requested: _____
(for St. Louis, please specify "County" or "City")

ANNUAL WAGE ORDER PASSWORDS

The Annual Wage Order is being provided to requesters via the Division's website. Passwords are required to access the Annual Wage Order and Incremental Increases on the Internet. Please provide an e-mail address below where we can send a password to you.

E-mail address: _____

Requester's Signature _____

_____/_____/_____
Date of Request

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MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS

**PREVAILING WAGE
PROJECT NOTIFICATION – CONTRACTOR INFORMATION NOTIFICATION**

The information below is requested pursuant to Sections 290.210 through 290.340 and 290.550 through 290.580 REVISED STATUTES OF MISSOURI.

1. Date of Notification	2. Annual Wage Order No. Included in Bid Specifications
3. Popular or Descriptive Name of Project	
4. Estimated Project Cost of Completion (total construction contracts to be awarded) \$	
5. Exact Location of Project *Specify Name of ¹ County and ² City, Village or District <div style="display: flex; justify-content: space-between;"> <u>County</u> <u>City or Village</u> <u>Township</u> </div>	
6. Official Name of Public Body or Agency	
7. Name of Contact Person	8. Phone Number (include area code)
9. Address	
10. E-mail Address	Website
11. Anticipated Date for Soliciting or Advertising for Bids	12. Anticipated Date for Contract Awarding
13. Proposed Date for Start of Work on Project	14. Estimated Date of Project Completion
15. Will There Be Any Federal Funds Used in this Contract? <input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Contractor Information Notification (Optional, please provide if available.)	
General Contractor: Name _____	
Address _____	
City _____ State _____ Zip _____	
List all Sub-Contractors:	
Name _____	
Address _____	
City _____ State _____ Zip _____	
Name _____	
Address _____	
City _____ State _____ Zip _____	

The state of Missouri requires workers on public works projects be paid prevailing wage. Public bodies have certain duties required to fulfill under this law (Section 290.210 - 290.340 RSMo).

Mail, Fax or E-mail completed form to:
DIVISION OF LABOR STANDARDS
Attn: Prevailing Wage Section
P.O. Box 449
Jefferson City, MO 65102-0449
Phone: 573-751-3403
Fax: 573-751-3721
E-mail: prevailingwage@dolir.mo.gov
Website: www.dolir.mo.gov/lr

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MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS

MISSOURI PUBLIC WORK CHECK-OFF LIST

Missouri law prohibits all employers from employing aliens unlawfully present in the United States to perform work within the state of Missouri. Our law mandates that all employees working on the site of public works construction projects must have received safety training. The Prevailing Wage Law requires that not less than the locally prevailing wages be paid to workers on every construction project in the state that is for the public use or benefit or that uses public funds. Public entities must comply with these laws. Failure to comply with many of these laws constitutes a misdemeanor for the employer and for the public official that does not fulfill the responsibilities they impose. The purpose of many of these laws is to protect the tax base, keep workers safe, and ensure that construction remains a high-skilled enterprise. These laws require all public bodies to be good employers and not participate in corner-cutting that hurts our economy, our labor standards and puts worker safety at risk. The Division of Labor Standards (DLS) can help your project to comply with the laws of the state by using the check-off list below.

I

Before Contract Is Let

- ☐ Before the contract is let, you must request and receive a wage order from the DLS (See sections 290.250 and 290.325, RSMo, enclosed in the laws section) by submitting a **"Request for Wage Determination"** form - PW-3 (enclosed in the forms section) to the Division. The Division emails those requesting wage orders a password with further instructions on how to obtain a wage order.
- ☐ Attach the wage order provided by DLS to, and make it a part of, the specifications for the work to be performed under the contract (see section 290.250 and 290.325, RSMo, enclosed in the laws section).
- ☐ Create a contract which incorporates the following:
 - ☐ Insert a statement such as: "Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under the contract, **must** be paid to all workers performing work under the contract." (See section 290.250, RSMo, enclosed in the laws section.)
 - ☐ Insert a statement such as: "The contractor will forfeit a penalty to the contracting public body of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor." (See section 290.250, RSMo, enclosed in the laws section.) For detailed information on rules and occupational titles, see 8 CSR 30-3.010 through 3.060 (enclosed in the laws section, Code of State Regulations-Prevailing Wage rules).
 - ☐ Insert a statement such as: "The contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour safety training program required under Section 292.675, RSMo, (enclosed in the laws section), if they have not previously completed the program and have documentation of having done so."

- ☐ Insert a statement such as: "The contractor will forfeit a penalty to the contracting public body of \$2500 plus an additional \$100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training." (See section 292.675, RSMo, enclosed in the laws section.)
- ☐ Insert a statement such as: "During periods of excessive unemployment (any month immediately following two consecutive calendar months during which the level of unemployment in the state has exceeded five percent as measured by the United States Bureau of Labor Statistics) only Missouri laborers (persons who have resided in Missouri for at least thirty days and intend to become or remain Missouri residents) and laborers from non-restrictive states (persons who are residents of a state which has not enacted state laws restricting Missouri laborers from working on public works projects in that state, as determined by the Labor and Industrial Relations Commission) (see Excessive Unemployment section), may be employed under the contract, except that other laborers may be used when Missouri laborers or laborers from nonrestrictive states are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer." (See sections 290.550 through 290.580, RSMo, enclosed in the laws section.)
- ☐ Insert a statement such as: "Every transient employer, as defined in section 285.230, RSMo, enclosed in the laws section, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section 285.234, RSMo, enclosed in the laws section, be liable for a penalty of \$500 per day until the notices required by this section are posted as required by that statute." (See list of transient employers, and Missouri Department of Revenue form 3032, enclosed in the forms section.)
- ☐ Before any work begins, you must send a "**Prevailing Wage Project Notification – Contractor Information Notification**" – form PW-2 (Enclosed in the Forms section) to the DLS. Send it when the contract is awarded to ensure the DLS receives it timely (see section 290.262.10, RSMo, enclosed in the laws section, and 8 CSR 30-3.010[3], enclosed Code of State Regulations-Prevailing Wage rules).
- ☐ Verify if a wage subsidy, bid supplement or rebate was provided, and if so, if it was provided lawfully. The amount and date of such subsidy, supplement or rebate **must** be reported to the public body within 30 days of receipt of payment (see section 290.095, RSMo, enclosed in the laws section).
- ☐ Verify that transient or out of state employers file a financial assurance instrument and post in a prominent and easily accessible place at the work site: (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance verified by the department of revenue; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply shall be liable for a penalty of \$500 per day until the required

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notices are posted. Transient employers that fail to conclusively show that they have filed the required financial assurances must, before starting performance of any contract with a political subdivision, provide an amount equal to a portion of its labor costs to be held in escrow by the political subdivision. Failure of a political subdivision to properly escrow these funds will make it ineligible to receive state funds for public works projects for a period of one year (see sections 285.230 through 285.234, RSMo, enclosed in the laws section).

- ☐ Verify that any and all foreign corporations transacting business on your project have obtained a **"Certificate of Authority"** form - Corp-42 from the Missouri Secretary of State (enclosed in the forms section). Every foreign corporation now doing business in or which may hereafter do business in this state without a certificate of authority shall be subject to a fine of not less than \$1,000 (see sections 351.572 and 351.574, RSMo, enclosed in the laws section).
- ☐ Verify that no business entity or employer involved with your project employs an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of \$5,000 the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services (see section 285.530 RSMo, enclosed in the laws section). Failure to comply may cause a public body to be ineligible for any moneys provided through grants administered by any state agency (see sections 67.307 and 285.550, RSMo, enclosed in the laws section).

II

While Contract Is Being Performed

- ☐ If you are aware of any possible prevailing wage violation, you must report it to the DLS using the **"Prevailing Wage Complaint form"** - PW-6 (enclosed in the forms section). The DLS will assist you and your staff with complying with the law. A public body cannot make final payment until the law is complied with.
- ☐ A legible list of all prevailing wage rates **must remain** posted in a prominent and easily accessible place at the worksite by each contractor and subcontractor on the project. **Require** the notice to be posted during the full time that any worker is employed on the job (see section 290.265, RSMo, enclosed in the laws section).
- ☐ Review records of wages paid to all workers employed on the contract to assure workers are paid properly (see section 290.290, RSMo, enclosed in the laws section). Records must be kept within the state by the contractor and each subcontractor for a period of one year following completion of the public works project. DLS provides a Contractor Payroll Records form (LS-57 form) for contractors and subcontractors to use to assure provision of the payroll information required (see 8 CSR 30-3.010[7], enclosed Code of State Regulations- Prevailing Wage rules).
- ☐ Monitor any workers classified as independent contractors and issued 1099 tax forms. It is against the law for an employer to knowingly misclassify a worker or fail to claim the worker as an employee (see section 285.503, RSMo, enclosed in the laws section). The Attorney General may seek an injunction prohibiting the employer from engaging in such conduct. If the misclassification is occurring on a public works project, such an injunction could stop the project (see section 285.512, RSMo, enclosed in the laws section). Report misclassified workers with the **"Report Worker Misclassification/1099 Abuse"** form MODES-4610 (enclosed in the forms section).

III

Before Contract Is Fully Paid

- ☐ Before final payment can be made, the general contractor and all subcontractors **must** file an “**Affidavit of Compliance**” form - PW-4 (enclosed in forms section) with the contracting public body. The affidavit must state the party has fully complied with Missouri Prevailing Wage Law, and the public body must verify that the correct wages were paid. No payment can be legally made by the public body to the contractor(s) until the affidavit is filed in proper form and order with the public body (see section 290.290 and 290.325, RSMo, enclosed in the laws section).
- ☐ Withhold and retain any and all amounts due as a result of any violations of the Prevailing Wage Law (see section 290.250, RSMo, enclosed in the laws section).

Failure to comply with the requirements of the Prevailing Wage Law can result in civil action, including an injunction stopping work on a project, and in criminal fines of up to \$500 and up to six months imprisonment for **each day** there is a violation.

The Division of Labor Standards always is available to answer questions and provide assistance with a prevailing wage project. Please contact us anytime at:

Missouri Department of Labor and Industrial Relations
Division of Labor Standards
Prevailing Wage Section
P.O. Box 449
Jefferson City, MO 65102-0449
Phone: 573-751-3403 Fax: 573-751-3721
E-mail: prevailingwage@labor.mo.gov
Website: www.labor.mo.gov/DLS/WageAndHour/PrevailingWage/prevailing_wage.asp

CONTRACTORS CHECK-OFF LIST:

- ☐ Request a copy of the Occupational Title Rule (included in the Laws Section).
- ☐ Your bids should be based on the rate for the scope of work defined for each occupational title (classification).
- ☐ Incorporate prevailing wages into your bid.
- ☐ Pay employees proper wage/fringe rate for type of work performed.
- ☐ Submit certified payroll records (see LS-57 in Forms section) to public entity showing all employees' work classifications (occupational title), hours worked and rate of pay.
- ☐ Submit Affidavit of Compliance (see PW-4 in Forms section) to public entity at project completion to receive final payment.

IMPORTANT INFORMATION

Prevailing wage rates for a particular county, area or project:

Because of the changing nature of Prevailing Wage rates, we do not give rates verbally. Public entities should request rates with a request form (PW-3). Contractors should get rates from bid specifications provided by the public entity.

Difference between major repair and maintenance:

"Major repairs" are subject to the Prevailing Wage Law. Repairs done by overhaul or replacement of major constituent parts that have deteriorated are "major repairs." Any questions regarding major repairs should be addressed to the Division. If the size, type or extent of the existing facility is changed or increased, the work performed is subject to the Prevailing Wage Law. A maintenance project is not subject to the Prevailing Wage Law. Maintenance is recurrent, day-to-day, periodic or scheduled work unless it involves the overhaul or replacement of major constituent parts. If work involves the repair but not the major repair or replacement of existing facilities, and the size, type or extent of the existing facilities is not changed, it is maintenance.

Prevailing wage rate calculation:

The basic hourly rate and total fringe benefits are added together to reflect the proper hourly rate of pay.

Employees subject to prevailing wage rates:

Employees performing construction on public works projects are required to receive at least the prevailing rate of pay for the type of work they performed.

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This is regardless of their title or salary status. Employees who only perform supervisory tasks are not covered by prevailing wage.

Differences between apprentices and helpers:

Helpers usually are untrained or unskilled workers. Apprentices are employees enrolled in a skilled and registered training program. Only apprentices registered with the Federal Bureau of Apprenticeship Training (BAT) are recognized by the Division. The program must be certified by BAT.

Determining the prevailing wage rates:

Contractors, public bodies and others submit wage information to the Division. The information includes actual hours worked on commercial or heavy and highway projects. The classifications (Occupational Titles) of workers must be identified. The highest number of hours received for a rate paid is the prevailing wage rate (per Individual County).

FREQUENTLY ASKED QUESTIONS

Q. Is there a minimum dollar amount or square footage before a project is considered a public works project?

A. No, the law has no dollar or size limit or requirement.

Q. I performed work for a contractor on a particular project. Should I have received prevailing wages for the work performed?

A. The first step is to identify the project as private or public works. If it was a public works project, and you were an employee of a contractor, you should have received the prevailing wage.

Q. Does the Division of Labor Standards offer any guidance or information about Prevailing Wage?

A. Yes, the Division has informational packets that include the Prevailing Wage Law and Regulations, step-by-step procedures to follow, relevant forms and a contractor's report of wages survey form. Most questions are easily answered over the telephone by professional staff. More complex questions may require written correspondence from the individual, as well as from the Division.

We invite all of you with any questions or requests for assistance to contact us at:

Missouri Department of Labor and
Industrial Relations
DIVISION OF LABOR STANDARDS
Wage and Hour Section
P.O. Box 449
Jefferson City, MO 65102-0449
573-751-3403
Fax: 573-751-3721
E-mail: prevailingwage@labor.mo.gov

****LABOR STANDARDS HELPFUL HINTS****

- ❖ Review each payroll to determine whether correct wages were paid for the time period prior to submitting an RFF for payment to the contractor.
- ❖ Make sure the correct Federal wage decision and State Wage Order are in the bid packets.
- ❖ Scheduling pre-bid and pre-construction meetings can prevent many problems.
- ❖ If payrolls indicate that wage restitution is necessary, immediately initiate the corrective actions as described in the narrative portion of this chapter.
- ❖ The longer a labor-related problem remains unaddressed, the more difficult it becomes to resolve. The Compliance Team staff offers technical assistance to all parties involved with the various facets of labor standards requirements.